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12

13 **UNITED STATES DISTRICT COURT**
14 **IN AND FOR THE DISTRICT OF NEVADA**

15 FEDEARL TRADE COMMISSION; and
16 STATE OF NEVADA,

17 Plaintiffs,

18 vs.

19 INTERNATIONAL MARKETS LIVE INC.;
20 IMMASTERY ACADEMY LTD.;
ASSIDUOUS, INC.; GLOBAL DYNASTY
21 NETWORK, LLC.; CHRISTOPHER
TERRY; ISIS TERRY; JASON BROWN;
22 ALEX MORTON; MATTHEW ROSA; and
23 BRANDON BOYD,

24 Defendants.

Case No. 2:25-CV-00760-CDS-NJK

**DEFENDANT BRANDON BOYD'S
REPLY IN SUPPORT OF MOTION FOR
RULE 16 CONFERENCE
CONCERNING BRIEFING,
SCHEDULING, AND DISCOVERY ON
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

25 Defendant Brandon Boyd ("Mr. Boyd"), by and through counsel, hereby submits this
26 reply memorandum in further support of his *Motion For Rule 16 Conference Concerning*
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1 *Briefing, Scheduling and Discovery* [ECF 53](the “**Motion**”) which requests that the Court
2 schedule a Rule 16 Conference as soon as practicable with counsel for all parties in this case to
3 address scheduling matters related to briefing, limited and expedited discovery, and a hearing on
4 Plaintiffs’ Motion for Preliminary Injunction filed May 30, 2025 (ECF No. 42) (“**PI Motion**”).
5 Given the massive and evidence-dense structure of the PI Motion, there is urgency to set a
6 conference and determine a reasonable briefing and discovery schedule before the present
7 deadline for a response, June 27, 2025, passes. This Reply is made and based upon the pleadings
8 and papers on file here, the below Memorandum of Points and Authorities, and any oral
9 argument this Court allows at the time of any hearing scheduled on the Motion.

10 DATED this 18th day of June 2025.

11 Respectfully submitted,
12 RAY QUINNEY & NEBEKER P.C.

13 /s/ Jeffrey W. Shields
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MEMORANDUM OF POINTS AND AUTHORITIES

1. Plaintiffs Misinterpret Applicable State and Federal Law and Rules.

Through the Motion, Defendant Boyd reasonably seeks a conference with the Court to assist the parties in navigating the volume and complexity of the claims, parties, and evidence submitted by Plaintiffs in support of the PI Motion. Plaintiffs misinterpret state and federal law and rules applicable to conference requests when they state that both Rule 16 of the Federal Rules of Civil Procedure and Local Rule 16 “focus on the use of such a conference to ensure that a case is not unduly delayed.” (ECF 47, n. 4). However, timing is only *one* of five purposes for Rule 16 conferences. *See* Fed. R. Civ. P. 16(a)(1)-(5). The main purpose for the request in this case is for “improving the quality of the trial through more thorough preparation[.]” Fed. R. Civ. P. 16(a)(4). As stated in the Motion, the committee notes of this rule themselves state that “the quality of justice rendered in the federal courts by sharpening the preparation and presentation of cases, tending to eliminate trial surprise, and improving, as well as facilitating, the settlement process.” Fed. R. Civ. P. 16 advisory committee note. “Without judicial guidance beginning *shortly* after institution, these cases often become mired in discovery.” *Id.*¹ (emphasis added).

While the Plaintiffs take Mr. Boyd’s request as a delay tactic, it is precisely the opposite. Mr. Boyd’s position is that the Court order the parties to convene to set fair and efficient deadlines for both briefing the PI Motion and a discovery schedule². Early discovery is appropriate in cases requesting preliminary injunctive relief. *See Radio Sys. Corp. v. Sunbeam Prods., Inc.*, No. 3:12-CV-648, 2013 WL 416295, at *2 (E.D. Tenn. Jan. 30, 2013) (“Discovery

¹ *See also* Moore’s Federal Practice at § 16.36[3][c] (“Addressing these matters assertively early in the pretrial period... [is] essential to coherent case development planning, and can avoid the delays and the wasteful repetition of discovery events that are often occasioned by amendments made later in the pretrial period.”)

²The parties held a Rule 26(f) conference, and as of the date of this Reply, a draft 26(f) report has been circulated for review and approval by the parties.

1 can begin earlier...by local rule, order, or stipulation...appropriate in some cases, such as those
2 involving requests for a preliminary injunction[.]” (quoting *S.E.C. v. Wilson*, 2012 WL 5874456
3 (E.D.Mich.Nov.20, 2012) (granting leave to schedule discovery where a preliminary injunction
4 was pending)); *see also Intrepid Automation, Inc. v. 3D Sys. Corp.*, 2025 WL 712652, *1--*4
5 (S.D. Cal. 2025) (concluding that there was good cause for expedited discovery in a patent case
6 where preliminary injunction motions are often pursued) (quoting *Apple Inc. v. Samsung Elecs.*
7 *Co.*, No. 11-CV-01846-LHK, 2011 WL 1938154, at *1 (N.D. Cal. May 18, 2011) (“In
8 determining whether good cause justifies expedited discovery, court commonly consider factors
9 including: (1) whether a preliminary injunction is pending . . . “(3) the purpose for requesting the
10 expedited discovery”)); *Tenn. Guardrail, Inc. v. Tenn. Dept. of Transp.*, 2011 WL 5153086,
11 at *4-5 (M.D.Tenn. Oct.28, 2011) (ordering discovery to take place in advance of the
12 preliminary injunction hearing). Though a preliminary injunction is not necessarily a formal trial,
13 this PI Motion will be an evidentiary hearing and there are multiple witnesses, hundreds of
14 exhibits, and expert testimony being presented. Preliminary injunctions often concern the main
15 and ultimate issues of a case and can result in establishment of law of the case. As such, early
16 discovery, and careful preparation of a response to the PI Motion and for an evidentiary hearing
17 on it, are necessary for this preliminary injunction proceeding so as to not prejudice defendants’
18 ability to ultimately try the case.

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22 Plaintiffs are in error stating that a showing of “good cause” is needed for a Rule 16
23 conference. (ECF 57 at 4) (“Moving Defendants fail to provide good cause for why the Delay
24 Motions should be granted.”)). “A scheduling conference may be requested either by the judge, a
25 magistrate when authorized by district court rule, or a party within 120 days after the summons
26 and complaint are filed.” Fed. R. Civ. P. 16 advisory committee’s note. Good cause is required
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1 only for *modifying* schedules already in place, not for a request for a Rule 16 conference. Fed. R.
2 Civ. P. 16(b)(4). The law is clear that Rule 16 functions as a helpful tool for parties and the Court
3 to maintain control of cases early on and ensure that it is managed effectively throughout the
4 pretrial process. The very purpose of Rule 16 is to supervise complex cases.

5
6 **2. A Rule 16 Conference Is Necessary to Facilitate This Case.**

7 This is the type of case that particularly benefits from a Rule 16 conference to facilitate
8 and manage the positions of the parties on expedited discovery, briefing, and the hearing on the
9 PI Motion. The FTC began its investigation three years ago and Mr. Boyd has not had time for
10 discovery, to retain his own experts, and to review the thousands of pages submitted with the PI
11 Motion. Time and discovery are necessary to permit Mr. Boyd to prepare a response to the PI
12 Motion and prepare for an evidentiary hearing on the PI Motion.

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14 Plaintiffs report that through stipulation, they already gave Defendants a 14-day
15 extension to respond to the PI Motion. (ECF 57). Plaintiffs fail to mention that the extension
16 given was far less than requested. It is grossly inadequate under the circumstances. The
17 stipulation specifically provides a process for requesting additional enlargements of time.
18 Plaintiffs also rely on the misguided notion that Mr. Boyd's arguments are defeated by the fact
19 that "most of that evidence comes directly from the Moving Defendants' own files[.]" (ECF 57
20 at 4). The mere fact that the PI Motion and supporting material is derived from evidence
21 produced by the defendants in the investigative stage of this matter does not change the fact that
22 defendants need and are entitled to evaluate and take discovery on how the evidence is being
23 used and presented. Mr. Boyd has the right to evaluate the veracity of the declarants' statements
24 and determine the circumstances under which they were given.. For example, the fact that the
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1 FTC's experts, particularly Mr. Isaacson³, relied on information Defendants provided in the
2 investigative stage of the case does not dilute Defendants' rights under Rule 26(a)(2) to rebut the
3 opinion, and test conclusions drawn from, that evidence, and to test Isaacson's qualifications to
4 testify at all on the subjects of his report.⁴

5 Finally, Plaintiffs' statement about giving Defendants draft complaints over a period
6 shows only that they could have brought this action much earlier and chose not to do so. This
7 further diminishes any claims of urgency in their PI Motion and undermines their arguments
8 against giving reasonable extensions to Defendants to oppose the immense PI Motion. There are
9 no new facts in this case other than the closure of the corporate defendants. There is no need for
10 expedition, and Plaintiffs have shown there is not a viable concern about possible continuing
11 violations. For example, if Mr. Boyd intended to conceal assets in reaction to an FTC
12 investigation, he would have done so long before now, having been made aware of the
13 investigation nearly two years ago. He has done nothing of the kind.

14 CONCLUSION

15 Defendant Brandon Boyd requests that the Court schedule a Rule 16 conference with the
16 parties as soon as practicable, but in all events prior to the current deadline to respond to the PI
17 Motion (June 27, 2025) to address all aspects of the PI Motion, including the schedule for
18 briefing the motion, expedited discovery directed to probable opposing witnesses in the hearing
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22 ³ Mr. Boyd specifically objects to the three declarations submitted by Plaintiffs in the
23 Memorandum in Opposition as inadmissible hearsay. (EFC 57-1, 57-2, and 57-3). Plaintiffs'
24 declarations and the contents therein are out of court statements offered to prove the truth of the
25 matter asserted in those statements, and as a result, constitute inadmissible hearsay. Such
26 inadmissible hearsay is inappropriate in this instance to oppose a request to schedule a Rule 16
27 conference with the Court.

28 ⁴ Mr. Boyd also does not have possession of what other Defendants in this case produced in the
investigative stage of this matter, nor to his knowledge, do the other Defendants have what he
produced previously.

as well as discovery and rebuttal of expert reports to support the PI Motion, and a schedule for an evidentiary hearing on the PI Motion.

DATED this 18th day of June 2025.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of June 2025, I electronically filed with the Court's CM/ECF Program the foregoing **DEFENDANT BRANDON BOYD'S REPLY IN SUPPORT OF MOTION FOR RULE 16 CONFERENCE CONCERNING BRIEFING, SCHEDULING, AND DISCOVERY ON PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION** which sent email notification of such to all counsel of record as follows:

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